

Message Text

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ACTION L-03

INFO OCT-01 ARA-16 ISO-00 SCA-01 JUSE-00 SS-20 NSC-10

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C O N F I D E N T I A L NASSAU 1795

E. O. 11652: GDS

TAGS: PFOR CPRS BF

SUBJ: EXTRADITION - ROBERT L. VESCO: HEARING DAY EIGHT

BEGIN SUMMARY: NOV 22 SESSION SAW REJECTION OF GAITHER AFFIDAVIT ON PROTOCOL TO EXTRADITION TREATY, RESTING OF USG CASE AND SOME TRACES OF DEJECTION AMONG COUNSELS FOR USG SIDE.
END SUMMARY.

1. SESSION BEGAN WITH TENDER OF LAUER AFFIDAVIT, WHICH WAS ACCEPTED WITH THE EXCISION OF SOME APPARENTLY NON-SUBSTANTIVE HEARSAY. MAGISTRATE COMPLAINED ABOUT ILLEGIBILITY OF XEROX COPIES OF SOME EXHIBITS ATTACHED TO AFFIDAVIT, BUT COUNSEL FOR BOTH SIDES AGREED HE WOULD JUST HAVE TO DO THE BEST HE COULD AT DECIPHERING THEM.

2. ASSISTANT POLICE SUPERINTENDENT CRAWLEY WAS CALLED TO THE STAND TO IDENTIFY VESCO AND TO TESTIFY TO THE FACT OF THE NOV 6 ARREST. THE TAYLOR AFFIDAVIT CONCERNING CERTAIN PROVISIONS OF 18 USC WAS ACCEPTED IN EVIDENCE WITHOUT OBJECTION.

3. ATTORNEY FOR USG SIDE PATRICK TOOTHE THEN ENDERED AFFIDAVIT BY GAITHER OF STATE/L CONCERNING 1972 PROTOCOL TO US/UK EXTRADITION TREATY. MAGISTRATE OSADEBAY GLANCED AT IT AND SAID HE WOULD NOT ACCEPT EXTRINSIC EVIDENCE ON A DOCUMENT
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WHICH WAS CLEAR ON ITS FACE, ALTHOUGH COUNSEL COULD USE ANY

ARGUMENTATION CONTAINED IN THE AFFIDAVIT DURING CLOSING ARGUMENTS TO THE COURT. OSADEBAY FURTHER OBJECTED THAT ALTHOUGH THE PROTOCOL HAD NOT YET BEEN RATIFIED, IT HAD BEEN PUBLISHED AS AN OFFICIAL DOCUMENT BY THE UK AND HAD BEEN SUCCEEDED TO BY THE GCOB ON INDEPENDENCE. GAITHER WAS THEREFORE ATTEMPTING TO GIVE TESTIMONY AS A US EXPERT ON WHAT IN EFFECT WAS BAHAMIAN LAW. TOOTHE ARGUED THAT THE AFFIDAVIT DID NOT PURPORT TO EXPLAIN WHAT THE PROTOCOL MEANT BUT RATHER WHY IT HAD BEEN WRITTEN, BUT OSADEBAY REMAINED ADAMANT AND SAID THAT SUCH A QUESTION SHOULD BE ANSWERED BY THE GCOB MINEXTAFF AFTER CONSULTATION WITH THE UK FOREIGN OFFICE. HE RULED THAT THE GAITHER AFFIDAVIT AS A WHOLE WAS INADMISSIBLE. COMMENT: WHILE THE ISSUE DID NOT ARISE, ATTORNEYS FOR USG SIDE WERE DISTURBED THAT AFFIDAVIT HAD NOT BEEN SWORN TO BY GAITHER, AND PROBABLY WOULD HAVE BEEN EXCLUDED ON THAT GROUND ALONE.

4. TOOTHE AND WHITFIELD THEN RESTED USG CASE AGAINST VESCO. WHITFIELD ASKED FORMALLY THAT VESCO BE REMANDED IN THE LIGHT OF THE "STRONG PRIMA FACIE CASE" WHICH HAD BEEN MADE OUT AGAINST HIM. VESCO ATTORNEY DUPUCH SPRANG TO HIS FEET, AND IN HIS BEST CLARENCE DARROW MANNER (WHICH CAN BE VERY EFFECTIVE), SAID THAT IN ALL HIS EXPERIENCE HE HAD NEVER SEEN ANYTHING AS "FIENDISH AND INHUMANE" AS THIS ATTEMPT TO PUT HIS CLIENT IN JAIL "ON THANKSGIVING DAY, ONE OF THE HOLIEST DAYS FOR AMERICANS." (COMMENT: NO ONE THOUGHT TO REMIND DUPUCH THAT HIS CLIENT CLAIMS HE HS RENOUNCED HIS US CITIZENSHIP.) MAGISTRATE REJECTED WHITFIELD'S REQUEST, ALTHOUGH HE SAID THAT OF COURSE IT MIGHT BE ENTERTAINED AT THE CONCLUSION OF THE CASE AS A WHOLE.

5. DUPUCH REMINDED MAGISTRATE OF THE SECOND BUHL AFFIDAVIT, WHICH HE SKED OSADEBAY TO REQUEST OF HIM AT THIS POINT. WHITFIELD ARGUED UNSUCCESSFULLY THAT THE AFFIDAVIT HAD BEEN OBTAINED BY THE DEFENSE AND SHOULD BE INCLUDED IN THE DEFENSE CASE. OSADEBAY RULED THAT AFFIDAVIT WAS IN THE NATURE OF IMPEACHMENT OF A PROSECUTION WITNESS AND WOULD BE RECEIVED BY THE COURT AS FORMING PART OF NEITHER SIDE'S CASE. OBJECTIONS TO HEARSAY ALLEGEDLY CONTAINED IN THE AFFIDAVIT WERE OVER-RULED BY THE MAGISTATE ON THE GROUND THAT IMPEACHMENT EVIDENCE MAY CONTAIN HEARSAY, AND THE SECOND BUHL AFFIDAVIT CONFIDENTIAL

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WENT INTO EVIDENCE. DUPUCH ASKED FOR AN ADJOURNMENT UNTIL 10:00 A.M. MONDAY, NOV 26, TO GIVE HIM TIME TO PREPARE WHAT HE SAID WOULD BE A "MASSIVE" SUBMISSION TO THE COURT, UNDOUBTEDLY A MOTION TO DISMISS THE EXTRADITION REQUEST. SHOULD THAT SUBMISSION BE DENIED, THE NEXT STEP WOULD BE THE PRESENTATION OF THE DEFENSE CASE.

6. COMMENT: AS THE SESSION ADJOURNED, VESCO BROKE INTO A

BROAD GRIN AND SLAPPED DUPUCH ON THE BACK, SEEING CONFIDENT AND PLEASED WITH THE WAY THINGS WERE GOING. ATTORNEYS FOR THE USG SIDE APPEARED SLIGHTLY DEPRESSED. LOCAL PRESS COVERAGE, WHICH CONTINUES HEAVY, HAS HAD A HARD TIME WITH MANY OF THE LEGAL COMPLEXITIES RAISED. THE PRESS HAS ALSO PUBLISHED MISREPRESENTATIONS OF FACT AND OPINION, WHICH INACCURACIES FALLING IMPARTIALLY ON BOTH SIDES IN MOST CASES, BUT WITH SOME INDICATION THAT IT IS SIDING WITH VESCO. IN THIS THE PRESS APPEARS IN TUNE WITH LOCAL PUBLIC OPINION, WHICH IS NOT STRONGLY OVER-BALANCED, BUT FAVORS VESCO ON AT LEAST THREE GROUNDS: (1) DAVID AND GOLIATH: ONE MAN, STANDING ALONE, FENDING OFF THE ENTIRE USG; (2) CLEVERNESS IS MORE ADMIRABLE THAN HONESTY: VESCO, AND THE TALENT HE HAS HIRED, CONSISTENTLY OUTSMARTS THE USG; AND (3) IF VESCO IS EXTRADITED, HE'LL PULL ALL HIS MONEY, INCLUDING HIS UNCALCULATED SUPPORT FOR THE LOCAL ECONOMY, OUT WITH HIM. NO TRACE OF OVERT ANTI-AMERICANISM HAS SURFACED IN EITHER THE PRESS OR PUBLIC OPINION. THE WATERGATE PHENOMENON REMAINS CLEARLY IN THE BACKGROUND.

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